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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|-----------------|-------------|----------------------|----------------------|------------------|
| 09/522,053      | 03/09/2000  | Scott A Rosenberg    | INTL-0320-US-(P8003) | 4245             |

7590 03/24/2004

Timothy N Trop  
Trop Pruner & Hu PC  
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Houston, TX 77024

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| EXAMINER |
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VU, NGOC K

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2611

DATE MAILED: 03/24/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.



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**Office Action Summary**

Application No.

09/522,053

Applicant(s)

ROSENBERG ET AL.

Examiner

Ngoc K. Vu

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 4/10/2003 have been fully considered but they are not persuasive.

Applicant argued that the in the Eyer reference, encoder 100 does not packetize multiple heterogeneous video streams for transmission thereof in respective native information formats and associated native frame rates. This argument is not persuasive based on the following reasons.

According to the application specification, heterogeneous video is video from disparate sources which is intended to be displayed on a video display device. The video may be graphics or streaming video normally associated with television programming (see page 1, lines 5-8).

The application specification also describes that the arbitration and packetization unit 30 may simultaneously drive independent video sources at their natural rates onto different portions of the display screen of a display device 14. For example, the video information may be displayed at a native frame rate 60Hz while the graphical information may be updated at 25 Hz (see page 5, lines 6-12).

With respect to claims 11-13, Eyer clearly shows that the video/audio data is from video/audio source while the IPG data is from IPG data server (see figure 2). That is two video data are from different sources. It is noted that the IPG is graphical information such as interactive program guide including program title, program description and scheduling information (see col. 1, lines 8-9 and col. 5, lines 54-61).

Eyer also shows in figure 2 that the encoder 100 includes each MPEG-2 encoder independently packetizes video/audio and IPG data streams. Furthermore, Eyer discloses that the IPG data which passes through the filter 335 is processed at the IPG data processing function 180 at the incoming IPG data rate, e.g., typically on the order of 20-200kbps (see col. 9, lines 45-48). The IPGT provides a continuous flow of IPG data at typically 20-200kps to a plurality of encoders (see column 8, lines 12-14). It can be understood that, the IPG data is packetized and de-packetized at the same rate 20-200kps.

It is noted that there is no specific definition for the term "natural frame rates" in the specification. Instead, the term "natural frame rates" is read as a particular rate with respect to the example of the specification above.

Thus, the encoder 100 independently packetized (via MPEG-2 encoder) the IPG data and video data for transmission thereof in respective native information formats (e.g., video information and graphical information) and associated native frame rates (e.g., 20-200kps for IPG data).

For supporting the inherency, The Examiner cites two references Williams et al (US 6,188,436 B1) and Linzer et al (US 6,108,039) showing a typical encoder comprises a processor, a memory coupled to the processor, and a video controller coupled to the processor. Williams shows video encoder 56 including memory 58 coupled to a processor 70, and a controller 60, 74 coupled to the processor 70 (see figure 4). Linzer shows a processor 22 coupled to a memory 28, and a controller 30 coupled to the processor 22 (see figure 2).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2611

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 13, it is noted that the term "the original frame rate" is not previously defined. It is not clear what the "the original frame rate" referred to.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Eyer et al (US 6,160,545 A).

Regarding claim 11, Eyer discloses a system (100) comprising a packetization device (MPEG-2 encoder) independently packetize at least two heterogeneous video streams (video and IPG are packetized by the MPEG-2 encoder) for transmission thereof in respective native information formats and associated native frame rates (video and IPG data are from the separated sources. The MPEG-2 encoder packetizes independently video and IPG data at their native rates, particularly, IPG data flow at 20-220kbps to a MPEG-2 encoder) (see col. 8, lines

Art Unit: 2611

35-45, 12-17 and figures 1-3). It is noted that the encoder inherently comprises a processor, a memory coupled to the processor and a video controller coupled to the processor.

Regarding claim 12, Eyer discloses the system including a modulation device (mux/mod 250) to modulate and transport the independently packetized streams (see figure 2 and col. 24-27).

Regarding claim 13, Eyer discloses that each of the video streams has a different frame rate (for instance, IPG data flow at 20-220kbps to a MPEG-2 encoder) and is packetized to be de-packetized at the original frame rate (via display generator 190) in a display device (195) (see col. 8, lines 35-42 and figure 3) (For example, the IPG data is packetized and de-packetized at the same rate 20-200kps).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Art Unit: 2611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV  
June 15, 2003

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600